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Int'l League for Human Rights at UN

Petition Concerning East Timor on behalf of the International League for Human Rights

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To the Special Committee on the Situation with Regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, 13 July 1994

Mr. Chairman,

On behalf of the International League for Human Rights, a nongovernmental organization in consultative status with the Economic and Social Council, I want to thank you and your colleagues for the opportunity to speak before this committee today on East Timor. The matters of decolonization and self-determination that this committee regularly addresses have long concerned the League. Since our founding in 1941, we have rendered assistance to advocates of independence from over thirty countries which have since become members of the United Nations. In fact, one of the League's proudest achievements in this regard is the assistance that we provided to Dr. Mohammed Hata, one of the "Founding Fathers" of Indonesia, a man who worked tirelessly for his country's independence from its Dutch colonial rulers. It is therefore with irony and sorrow that we find it necessary to appear before this Committee once again to protest Indonesia's denial to East Timor of the rights of self-determination and equality that it sought so properly for itself almost fifty years ago.

The International League for Human Rights has been active regarding the situation in East Timor since Indonesia's invasion and purported annexation in 1975. We first spoke on this matter at the Fourth Committee of the General Assembly in 1978 and we have appeared many times since -- before the General Assembly until 1982, and subsequently before this Committee. On each of these occasions we have emphasized the illegality of Indonesia's actions -- the ways in which these actions constitute flagrant breaches of the United Nations Charter and of the relevant resolutions of the Assembly interpreting the Charter on both the use of force and the principle of self-determination.

In particular, the League has often argued that Indonesia's claims regarding the "incorporation" of East Timor do not meet the requirements of Principle IX of Resolution 1541 (XV) of the General Assembly(1), which deals with the method by which a non-self governing territory can become voluntarily integrated with another state. The ways in which the Indonesian "incorporation" fails to satisfy Principle IX are numerous: the Regional Popular Assembly of East Timor that Indonesia created to rubber-stamp the annexation was not formed on the basis of one-person-one vote, nor was there serious debate on integration, nor were other choices offered to the Assembly. But more important than the unrepresentative makeup of the Assembly or its faulty processes is the fact that no true choice was possible in the context of what was an ongoing military invasion. Under such conditions it is hard to make the claim that a territory that has known independence for only two weeks prior to a massive invasion has attained the "advanced state of self-government" that Principle IX requires. The United Nations understood that the Regional Popular Assembly was not an acceptable vehicle for a choice on integration and hence rightfully declined to observe (and hence lend legitimacy to) its proceedings.

But today there is no need to dwell on these and other legal arguments. Not only have we made the arguments many times before, but these arguments have been accepted by the relevant United Nations organs. As this Committee well knows, both the General Assembly(2) and the Security Council(3) have deplored Indonesia's use of force and have called for self-determination for the people of East Timor. The General Assembly has rejected the claim that East Timor has been incorporated into Indonesia, inasmuch as the people of the territory have not been able to exercise fully their right to self-determination and independence.(4) Indonesia's arguments as to how it has actually allowed for self-determination in East Timor have wisely and in no uncertain terms been rejected.

Mr. Chairman, we repeat these facts before this body today not to advance new arguments as to why Indonesia has acted in flagrant violation of international law, but only remind you of what has already been determined. As we discuss the human rights situation in East Timor we ask this Committee not to forget the backdrop: an occupation that has been deemed illegal by the United Nations of a nation that has never known self-determination.

According to foreign journalists, NGOs and reports to the United Nations, fundamental human rights continue to be widely abused in East Timor. The central problems are an atmosphere of fear created by the large military presence and the treatment of individuals who are suspected of having pro-independence sentiments, even if these sentiments are expressed peacefully. To give the Committee a recent example, three East Timorese -- Issac Soares, Miguel de Deus and Pantaleao Amaral -- were just last month sentenced to 20 months in prison for shouting pro-independence slogans to foreign journalists in April. These detained Timorese were reportedly tried as many independence activists are tried in East Timor -- without legal counsel during either interrogation or trial.(5)

The very serious human rights problem on the island continues to be noted by the United Nations itself. In early 1994, the Special Rapporteur on the Question of Torture, the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances all filed reports with sections on East Timor.

The Special Rapporteur on the Question of Torture included in his 1994 report(6) several well-documented accounts of torture of political prisoners in East Timor, which he forwarded to the Indonesian government in 1993.

The Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions wrote in his report(7) that "East Timor continued to be particularly affected by violations of the right to life perpetrated by the Indonesian security forces" and stated his concern that "the perpetrators of human rights violations continue to enjoy impunity."

The Working Group on Arbitrary Detention(8) assessed the case of Fernando de Araujo, an East Timorese arrested in Balie who was sentenced to nine years imprisonment for protesting against the massacre of peaceful demonstrators by Indonesian troops on 12 November 1991 at the Santa Cruz cemetery in Dili. The Working Group decided that his arrest and continued detention was arbitrary, that his trial did not meet international standards for fairness, and that there was evidence that he may have been tortured while under detention.

During 1993, under its urgent action procedure, The Working Group on Enforced or Involuntary Disappearances(9) transmitted to the Government of Indonesia 17 newly reported cases of disappearances of persons who had been reportedly arrested in Dili without a warrant and held incommunicado. In its response, the Indonesian government called the cases fabrications but was unable or unwilling to provide information on the whereabouts of any of the particular individuals mentioned.

Indonesia may claim that the Rapporteurs and Working Groups have received false reports, yet if the government of Indonesia did want to further access to information, it could invite the Working Groups and Rapporteurs to East Timor to assess the situation for themselves, an action which Human Rights Commission resolution 1993/97(10) strongly urged the government of Indonesia to undertake.

Mr. Chairman, as much as we look to these branches of the problem we cannot forget its fundamental root: decolonization has never reached East Timor. The nation has travelled directly from domination by the Portuguese to domination by the Indonesians, never having the chance to assert its own destiny.

In this way, the abuses of human rights in East Timor are not isolated outbreaks of cruelty, but symptoms of something more systemic. Put simply, there would not be human rights violations by the security forces in East Timor if there were not more than 5,000 Indonesian troops and military intelligence officers occupying the territory. There would not be troops occupying East Timor if they weren't needed to suppress the population's desire for independence. And the population wouldn't be crying out for independence if it was allowed to exercise that most fundamental of rights, the right to self-determination.

Self-determination. East Timor proves once again the broad importance of that political principle. When it is denied, ignored, or forgotten the price is paid in human suffering. Such is the case in East Timor, a nation where all human rights are in jeopardy because a fundamental right -- the right of a non-self governing territory to freely choose its political status -- has not yet been realized.

Mr. Speaker, there is some urgency to this matter. Last July, the League brought to the attention of this body a practice which if continued could prevent the East Timorese from ever being able to freely choose their status. I am referring to "transmigration," the Indonesian resettlement policy whereby population is transferred from densely populated to sparsely populated parts of the archipelago. This policy, whatever its

merits for Indonesia proper, takes on more foreboding overtones when applied to East Timor. An Observer article of May 1993 estimates that half of the population of Dili was born outside of East Timor and about a third of the total population is now made up of immigrants.(11) Edward Theberton, a journalist for the Australian daily The Age who travelled to East Timor in February, received reports that two ships arrive in Dili per week carrying Javanese settlers who are provided with backdated identity cards so that they would be able to vote if a plebiscite on East Timor's future were to take place.(12)

Resettlement of Indonesians into East Timor, as we pointed out last year, runs counter to at least two significant international instruments -- Article 49 of the Fourth Geneva Convention of 1949 (to which Indonesia is party) and GA Resolution 25/118 "Plan of Action for the Full Implementation of the Declaration of the Granting of Independence to Colonial Countries and Peoples"(13). Both of these instruments contain rather blunt obligations, the Geneva Convention against the occupying power transferring "parts of its own civilian population into the territory it occupies" and Resolution 25/118 against the same actions particularly when they "may constitute a major obstacle to the genuine exercise of the right of self-determination and independence by the people of those territories."

Mr. Speaker, we come before you today with the realization that no resolution that your Committee passes on this matter will by itself bring decolonization and self-determination to East Timor. The United Nations is often unable to apply its decisions, no matter how fair those decisions may be. But the point, Mr. Speaker, is that the United Nations and its various bodies can still make those decisions, can still affirm and promote what is lawful and what is just. What is important is that the East Timorese continue to strive for self-determination and that this Committee can play an important role in helping them realize their legitimate claims under international law.

NOTES

1) G.A. Res. 1541 (XV), 15 U.N. GAOR, Supp. (No. 16) 29, U.N. Doc. A/4684 (1960)

2) G. A. Res. 3485 (XXX), 30 U. N. GAOR, Supp. No. 34, at 118 (1975)

3) S.C. Res. 384,30 U.N. SCOR, Resolutions and Decisions, at 10, U.N. Doc. S/INF/31 (1975); S.C. Res. 389, 31 U.N. SCOR, Resolutions and Decisions, at 18, U.N. Doc. S/INF/32 (1976)

4) G.A. Res. 31/53, 31 U.N. GAOR, Supp. No. 39, at 125, U.N. Doc. A/31/39 (1976)

5) Amnesty International, Urgent Action Appeal UA 198/94 (23 May 1994) and follow-ups (2 June, 20 June, 27 June)

6) U.N. Doc. E/CN.4/1994/31, par. 325-343

7) U.N. Doc. E/CN.4/1994/7, par. 343-56

8) Full Report in U. N. Doc E/CN. 4/1994/27, par. 1 - 11

9) Full Report in U.N. Doc. E/CN.4/1994/26, par. 260-9

10) C.H.R. Res. 1993/97, U.N. Doc E/CN.4/1993/L.11 Add.9 (1993)

11) East Timor: "Web of Terror Traps Timorese," The Observer, May 30, 1993, p.11

12) "In Dili, even your waiter can be a spy," The Age, 25 February 1994

13) 35 U.N. GAOR, Supp. No. 48, at 21, U.N. Doc. A/35/48 (1980)